IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 5009 of 2001
To
FIRST APPEAL No. 5022 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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STATE OF GUJARAT & 1 - Appellant(s)
Versus
KHODABHAI NARSINH - Defendant(s)

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Appearance :
MS HANSA PUNANI, AGP for Appellant(s) : 1 - 2.
RULE SERVED BY DS for Defendant(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE AKSHAY H.MEHTA

Date : 05/10/2006

ORAL COMMON JUDGMENT :

This group of appeals under section 54 of the Land Acquisition Act, 1894 [hereinafter referred to as 'the Act'] is filed by the State of Gujarat

and the Executive Engineer, Construction Project Division IV, Rajkot. Since they are arising from a common judgment rendered by the 8th Joint Civil Judge [S.D.] Rajkot in Land Acquisition Case No. 875 of 1998 and its cognate matters dated 31/12/1999, they are heard together and they are now being disposed of by this common judgment.

2. The respondents are the original claimants i.e., owners of the lands under acquisition. Their lands are situated at village Adbalka in Paddhari Taluka in district Rajkot. These are agricultural lands. These lands were required for constructing canal under Aji-II Irrigation Project and, therefore, the proceedings for acquisition of the said lands were initiated under the provisions of the Act. Notification under section 4 was issued on 3rd April, 1986. Thereafter, declaration under section 6 was made and ultimately the Special Land Acquisition Officer made the award on 13th April, 1987. He determined the compensation at Rs.120/- per Are for irrigated land and Rs.90/- per Are for non-irrigated land.

2.1. The claimants being aggrieved by the same, requested for reference under section 18 of the Act, which was duly made and the Land Acquisition Case No. 875 of 1998 and its cognate matters came to be filed before the Ld. Civil Judge [S.D.]. At the hearing necessary evidence was produced by the claimants, oral as well as documentary. After considering the

material on record, the Ld. Judge made award and enhanced the rate of compensation and determined it at Rs.10/- per sq. mtr., irrespective of the nature of the land. The appellants have, therefore, approached this Court to challenge the said judgment and award made by the Ld. Civil Judge.

3. Ms. Hansa Punani, Ld. AGP has vehemently attacked the judgment and has submitted that the Ld. Judge has not taken into consideration the relevant aspects for determining the market value on the basis of which compensation could have been awarded to the respondents. She has submitted that the market value determined by the Ld. Judge is much on a higher side. She has, therefore, submitted that these appeals be allowed.

4. I have carefully considered the submissions made by Ms. Punani. I have also carefully perused the record of this case. It clearly appears that in respect of other lands situated at village Adbalka and which were acquired for this very purpose earlier, First Appeals were filed by the State to challenge the award of the Reference Court wherein Rs.10/- per sq. mtr., was determined as the market price. These appeals were numbered as First Appeals No.3190 of 2001 to 3204 of 2001. Learned Single Judge of this Court by common oral order dated 3rd December, 2002 dismissed the appeals at the admission stage itself. I have carefully gone through the speaking order which runs into 10 pages and I am of the opinion that it squarely applies to the facts of this case.

The lands in the present case are also of the same village and they have been acquired for the Irrigation Project of Aji-II. Same was the case before the Ld. Single Judge in aforesaid appeals. The lands are also adjoining to each other. In view of the same, there is no reason for me to take a different view in the matter. I, therefore, hold that the market value determined by the Reference Court is just and proper and there is no need to interfere with the same. Hence, these appeals have no merits and they are dismissed. However, in the facts and circumstances of the case, there is no order as to costs.

By order dated 2nd August, 2006 passed in First Appeal No. 5013 of 2001 the appellant was granted conditional time to bring heirs of the deceased respondent on record; failing which the appeal to stand abated. Thereafter, matter was adjourned to 18th August, 2006. However, till today no action has been taken in this direction. Hence, the First Appeal No. 5013 of 2001 now stands abated for non-compliance of the direction of this Court.

[Akshay H Mehta, J.]

* Pansala.